

HONORABLE RICHARD A. JONES

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

THO V. DAO,

Plaintiff,

v.

SEATTLE PUBLIC SCHOOLS, *et al*,

Defendants.

Case No. 2:23-cv-1341-RAJ

ORDER

This matter comes before the Court on Plaintiff's Motion for Leave to File a First amended complaint. Dkt. # 12. The Court **GRANTS** the motion.

I. BACKGROUND

Plaintiff, proceeding *pro se*, alleged claims of employment discrimination and retaliation under Title VII and Washington state law. Dkt. # 1. Plaintiff has since obtained counsel and seeks to amend his complaint. Dkt. # 12.

II. STANDARD

Pursuant to Rule 15(a)(2) of the Federal Rules of Civil Procedure, "a party may amend its pleading only with the opposing party's written consent or the court's leave. The court should freely give leave when justice so requires." "Rule 15(a) is very liberal and leave to amend 'shall be freely given when justice so requires.'" *AmerisourceBergen Corp. v. Dialysis West, Inc.*, 464 F.3d 946, 951 (9th Cir. 2006) (quoting *Bowles v. Reade*, 198

F.3d 752, 757 (9th Cir. 1999)). “In determining whether leave to amend is appropriate, the district court considers ‘the presence of any of four factors: bad faith, undue delay, prejudice to the opposing party, and/or futility.’ ” *Owens v. Kaiser Found. Health Plan, Inc.*, 244 F.3d 708, 712 (9th Cir. 2001) (quoting *Griggs v. Pace Am. Group, Inc.*, 170 F.3d 877, 880 (9th Cir. 1999)). Because leave to amend should be freely given, “the nonmovant bears the burden of showing why amendment should not be granted.” *Senza-Gel Corp. v. Seiffhart*, 803 F.2d 661, 666 (9th Cir. 1986). Thus, all inferences must be drawn in favor of the moving party. *Griggs*, 170 F.3d at 880.

III. DISCUSSION

Given the early stage of this litigation, the Court finds it appropriate to permit Plaintiff to amend his complaint. *See Wizards of the Coast LLC v. Cryptozoic Entertainment LLC*, 309 F.R.D. 645, 652 (W.D. Wash. 2015) (noting that prejudice in the context of a motion to amend means a party was substantially disadvantaged or deprived of the opportunity to present facts or evidence that it could have with a timely amendment). Notably, discovery has not substantially started and there was no undue delay by Plaintiff in bringing the motion. Furthermore, there is no indication of bad faith on Plaintiff’s part. To the extent the amended pleading prejudices some Defendants, the Court finds that the prejudice would be minimal given the opportunity to file a motion to dismiss.

IV. CONCLUSION

For the reasons stated above, the Court **GRANTS** Plaintiff’s motion. Dkt. # 12.

DATED this 8th day of December, 2023.



The Honorable Richard A. Jones
United States District Judge